

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13cv203**

MOUNTAINEER FINANCIAL SERVICES, LLC,)	
)	
)	
Plaintiff,)	
)	
)	
v.)	ORDER
)	
CITY OF HENDERSONVILLE, NORTH CAROLINA,)	
)	
)	
Defendant.)	
)	

Pending before the Court is the Motion to Compel [# 15]. Defendant moves the Court to compel Plaintiff to respond fully to its First Set of Interrogatories and Request for Production of Documents. The Court **DENIES** the motion [# 15].

I. Analysis

The Local Rules of this Court require the filing of both a motion and a separate legal brief. LCvR 7.1(C). Defendant filed a single document that purports to be both a motion and a memorandum in support of the motion. Because Defendant failed to comply with the requirements of the local rules and file both a motion and legal brief in support of its motion, the Court **DENIES** the motion [# 15].

Even had Defendant filed a proper motion and brief, however, the Court would still deny the motion because it is untimely. Rule 37 of the Federal Rules of Civil Procedure does not specify a specific time limit for the filing of a motion to compel. See Fed. R. Civ. P. 37; PCS Phosphate Co. v. Norfolk Southern Corp., 238 F.R.D. 555, 558 (E.D.N.C. 2006). Absent a specific order from the Court in the scheduling order, a party must generally move to compel a party to comply with a discovery request prior to the close of discovery or the motion is untimely. See Days Inn Worldwide, Inc. v. Sonia Invs., 237 F.R.D. 395, 397-98 (N.D. Tex. 2006) (collecting cases); U.S. v. \$28,720.00 in United States Currency, No. 1:13cv106, 2014 WL 1570925, at *1 (W.D.N.C. Apr. 17, 2014) (Howell, Mag. J.); Wellness Group, LLC v. King Bio, Inc., No. 1:12cv281, 2013 WL 5937722, at *1 (W.D.N.C. Nov. 4, 2013) (Howell, Mag. J.); Murphy v. Auto Advantage, Inc., 2012 WL 28781, at *1 (W.D.N.C. Jan. 5, 2012) (Howell, Mag. J.); Rudolph v. Buncombe Cnty Gov't, No. 1:10cv203, 2011 WL 5326187 (W.D.N.C. Nov. 4, 2011) (Howell, Mag. J.).

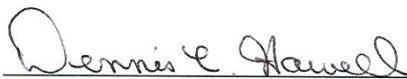
Discovery in this case closed May 1, 2014. As the Pretrial Order warned the parties. “[m]otions to compel must be filed within the discovery period or they may be deemed waived.” (Order, Nov. 5, 2013 at p. 6.) Defendant waited until May 19, 2014, several weeks after the close of discovery, to file its Motion to

Compel. Accordingly, Defendant's motion is untimely. Discovery in this case is closed. Summary Judgment motions are due June 1, 2014.

II. Conclusion

The Court **DENIES** the Motion to Compel [# 15].

Signed: May 20, 2014


Dennis L. Howell
Dennis L. Howell
United States Magistrate Judge 